

ORDINANCE NO. 1255

ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
LODI AUTHORIZING THE ISSUANCE OF REFUNDING
BONDS BY THE NORTHERN CALIFORNIA POWER AGENCY
(RFL GEOTHERMAL PROJECT)

WHEREAS, pursuant to the provisions of Chapter 5, Division 7, Title 1 of the Government Code of the State of California, as amended (the "Joint Powers Act"), the City of Lodi and certain other public agencies created pursuant to the laws of the State of California (collectively, the "Members"), have entered into a Joint Powers Agreement, as amended (the "Agreement"), creating the Northern California Power Agency (the "Agency"), a public entity separate and apart from the Members; and

WHEREAS, in accordance with the Agreement and the Joint Powers Act, the Agency and certain of the Members (hereinafter called the "Participating Members") have entered into the NCPA Member Agreement for Participation in Electric Power Development Fund (the "Development Fund Agreement"), dated July 1, 1975, revised May 1, 1978 and amended April 26, 1979, wherein each Participating Member has agreed to make payments from its electric department revenues, except Plumas-Sierra Rural Electric Cooperative which shall pay from any available funds, for certain Development Costs (as defined in the Development Fund Agreement), incurred by the Agency in developing a revenue-producing system for the generation, production and transmission of electric energy for lighting, heating and power for public and private uses; and

WHEREAS, the Agency has caused the Northern California Municipal Power Corporation No. 1 (the "NCMPC No. 1", a California not for profit corporation to be formed to act on behalf of the Agency to finance, among other things, interim development costs relating to a geothermal power plant in Lake County, California, the output of which plant was to be furnished to the Agency by the NCMPC No. 1; and

WHEREAS, pursuant to a Loan Agreement (the "Loan Agreement") dated as of June 29, 1979 with the Bank of Montreal (California) (the "BOM"), the NCMPC No. 1 could borrow at any one time not exceeding \$2,335,000 (the "BOM Loan"), of which, as of March 1, 1982, approximately \$1,635,500 remained unpaid, on a taxable basis, primarily to pay interim development costs for said power plant; and

WHEREAS, in order to secure the BOM Loan, the Agency assigned its rights to receive certain payments under the Development Fund Agreement to the BOM pursuant to a Security Agreement, dated as of June 29, 1979 (the "Security Agreement") between the Agency and the BOM, and granted a present and future first security interest in and assigned to the BOM the rights to such payments; and

WHEREAS, pursuant to Section 6576 of the Joint Powers Act, the Agency may provide for the issuance and sale of refunding bonds for the purpose of redeeming or retiring any revenue bonds or other evidence of indebtedness incurred by it; and

WHEREAS, the Agency proposes to issue not exceeding \$3,000,000 principal amount of its revenue bonds (the "Bonds") pursuant to said Section 6576 for the purpose of retiring its indebtedness to the BOM under the Security Agreement so as to provide for the payment of the indebtedness of the NCMPC No. 1 under the BOM Loan; and

WHEREAS, the Agency proposes to issue from time to time its renewal revenue bonds (the "Renewal Bonds") pursuant to said Section 6576, in a principal amount to be outstanding at any one time (in accordance with their terms) not to exceed \$3,000,000, the proceeds of the first issuance of such Renewal Bonds to provide funds for the payment and retirement of the Bonds and the proceeds of each later issuance of such Renewal Bonds to provide funds for the payment and retirement of Renewal Bonds theretofore outstanding; and

WHEREAS, the anticipated source of revenue or other funds to pay the principal of and interest on the Bonds, to the extent not paid from proceeds of Renewal Bonds, is payments of the Participating Members under the Development Fund Agreement; and

WHEREAS, the anticipated source of revenue or other funds to pay the principal of and interest on the Renewal Bonds, to the extent not paid from proceeds of subsequent Renewal Bonds, is payments of the Participating Members under the Development Fund Agreement; and

WHEREAS, in accordance with the Joint Powers Act, the exercise by the Agency of its power to issue the Bonds and the Renewal Bonds is subject to the authorization of such issuance by the Members pursuant to ordinance; and

WHEREAS, neither the payment of principal of the Bonds or the Renewal Bonds nor any part thereof nor interest thereon shall constitute a debt, liability or obligation of the City of Lodi;

NOW, THEREFORE, the City Council of the City of Lodi does ordain as follows:

1. The issuance and sale by the Agency of the Bonds is hereby authorized. The proceeds from the sale of the Bonds hereby authorized are to be used to retire the indebtedness of the Agency to the BOM under the Security Agreement so as to provide for the payment of the BOM Loan. The Bonds, premium, if any, and interest thereon, to the extent not paid from proceeds of Revenue Bonds, are to be payable from payments of Participating Members under the Development Fund Agreement.
2. The issuance and sale by the Agency of the Renewal Bonds is hereby separately authorized. The proceeds of the sale of the Renewal Bonds are to be used to retire Bonds or Renewal Bonds. The

Renewal Bonds, premium, if any, and interest thereon, to the extent not paid from the proceeds of subsequent Renewal Bonds, are to be payable from payments of Participating Members under the Development Fund Agreement.

3. Pursuant to Section 6547 of the Joint Powers Act, this ordinance is subject to the provisions for referendum prescribed by Section 3751.7 of the Elections Code of the State of California.
4. The City Clerk shall certify to the enactment of this ordinance and shall cause notice of the same to be published in accordance with Section 6040.1 of the Government Code of the State of California.
5. Sixty (60) days from and after its enactment, this ordinance shall take effect and be in full force, in the manner provided by law.

THE FOREGOING ORDINANCE is approved, enacted and adopted by the City Council of the City of Lodi, this 21st day of April, 1982.

Name Fred M. Reid
MAYOR

Attest:

Alice M. Reimche
ALICE M. REIMCHE
City Clerk

State of California
County of San Joaquin, ss.

I, Alice M. Reimche, City Clerk of the City of Lodi, do hereby certify that Ordinance No. 1255 was introduced at a regular meeting of the City Council of the City of Lodi held March 17, 1982 and was thereafter passed, adopted and ordered to print at a regular meeting of said Council held April 21, 1982 by the following vote:

Ayes: Council Member - Olson, Murphy, Snider, and Reid

Noes: Council Member - Pinkerton

Absent: Council Member - None

Abstain: Council Member - None

I further certify that Ordinance No. 1255 was approved and signed by the Mayor on the date of its passage and the same has been published pursuant to law.

Alice M. Reimche
ALICE M. REIMCHE
City Clerk

Approved as to form

RONALD M. STEIN
City Attorney

THE FOREGOING DOCUMENT IS CERTIFIED TO BE
A CORRECT COPY OF THE ORIGINAL ON FILE IN
THIS OFFICE.

DOREEN GAUGEL
DEPUTY CITY CLERK, CITY OF LODI

BY
DATED:

Doreen L. Gaugel
MAY 17 1982